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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,262	12/13/2005	Wolfgang Ehrfeld	100717-669-WCG	3593
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GERSTENZANG, WILLIAM C.				
NORRIS MCLAUGHLIN & MARCUS, PA				
875 THIRD AVE, 8TH FLOOR				
NEW YORK, NY 10022				
EXAMINER				
SOOHOO, TONY GLEN				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
03/08/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/535,262

Applicant(s)

EHRFELD ET AL.

Examiner

Tony G. Soohoo

Art Unit

1797

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2,4,5,7-10,12-16 and 18-29.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Tony G Soohoo/
Primary Examiner, Art Unit 1797

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant's arguments are unpersuasive, Applicant's points to elements 2 and 3 of the Hirose reference. This is immaterial to the rejection made final. There is no mapping of the elements of 2 and 3 to the instant claimed elements. Although Hirose shows additional elements it does not preclude the office's identification of elements 6, 6 as meeting the claimed 1st feed channel and 2nd feed channel.

Applicant's characterization that the holes 6, 6 are not channels are not well taken. The claims only require an enumerated identification of a 1st and 2nd feed channel. It does not manipulatively or structurally distinguishes them from the channels formed by Hirose's upper elements 6, 6. (see markup in the office action made final of 12/20/2009).

The Examiner takes contention with Applicant's characterization that the 1st and 2nd feed channels 6, 6, does not overlap the 1st and 2nd slot openings. Applicant is advised to see the markup of figure 4 and compare the upper 6,6, (1st and 2nd feed channels) being in a vertically aligned overlapped position with the lower 1st and 2nd slot openings (6, 6) in the slotted plate.

Applicant's statement on page 3, lines 6-7, is unsupported that the claims require "the presently claimed second feed channels (overlapped by the at least one ***first*** slot opening)" ["*emphasis added*"] There is no such language present in the instant claims.

Applicant's further discussion of the positioning of 2 and 3 does not rebut or address the relative positions of the elements 6, 6, above one another and named accordingly as 1st/2nd fluid channel and 1st/2nd slot opening.

Regarding JP 352, Applicant alleges that the identified holes/slots/channels "is incapable of splitting and combining... in a manner similar to the claimed invention because JP 352 ... operates according to a different principle." This does not properly rebut the corresponding structure and manipulative steps outlined in the rejection made by the office. Applicant's further statement that even if a skilled artisan were to stack multiple devices according to JP 352, the result would not achieve the 1st/2nd feed channels and the overlap relationship is mere allegation and is unsupported in evidence and direct rebuttal to the identified element and method steps identified by the office action made final. The response has been fully considered and do no place the claims in condition for allowance over the prior art.